

**CITY OF ALAMEDA  
COMMUNITY DEVELOPMENT DEPARTMENT**

**ADMINISTRATIVE USE PERMIT**

**ITEM NO:** 3-A

**APPLICATION NO:** PLN11-0307– 815 Atlantic

**PROJECT  
DESCRIPTION:**

The applicant seeks Use Permit and Design Review approval to locate a 1,500 gallon liquid oxygen (LOX) tank (14 feet tall, 6 feet 2 inches wide), a 160-gallon back up tank (8 feet tall, 3 feet wide), and associated equipment in an enclosure in the parking lot behind the office building at 815 Atlantic in Marina Village. The LOX will displace two existing parking spaces, but will add two others at the north end of the parking lot, therefore, there will be no loss in off-street parking. The LOX enclosure will have bollards positioned to protect the enclosure from impact and maintain the “no parking” area adjacent to the enclosure. A sign identifying the LOX inside the enclosure will be posted for identification for first responders.

The LOX will serve the Alameda Wound Clinic, which will occupy 4,718 square feet within the existing office space. The Clinic will include 5 exam rooms, a nurse station, a dirty and clean room, an office, toilets and a waiting area. The Clinic will also include up to 3 hyperbaric chambers. The clinic will be open 8AM to 5 PM, weekdays only. The number of patients expected is 30 per day, arriving at different times throughout the day throughout the day.

The applicant is proposing an 8-foot tall chain link fence with plastic strips woven through the fencing material. The parking area is directly adjacent to several residences whose back windows overlook the lot. Staff believes that a 14-foot enclosure of cement and metal, similar to an existing enclosure on the eastern side of the parking lot would screen the equipment from view of the residents and public, and be in keeping with the existing design of Marina Village. (See Photo, below.) Staff has conditioned the project accordingly.



**GENERAL PLAN:** Business Park

**ZONING:** M-X, Mixed Use-Planned Development District.

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt from State CEQA Guidelines, Section 15311. Construction of or placement of minor structures accessory to existing commercial facilities.

**PROJECT PLANNER:** Christina Ratcliffe, AICP, Planner I

**PUBLIC NOTICE:** A notice for this hearing was mailed to property owners and residents within 300 feet of the site, published in local newspapers and posted in public areas near the subject property. Staff has not received any public comments on this proposed project as of November 21, 2011.

**ATTACHMENTS:** 1. Plans

**ACRONYMS:** AMC – Alameda Municipal Code  
M-X – Mixed Use Planned Development  
LOX – Liquid Oxygen

**RECOMMENDATION:** Find that the project is Categorically Exempt from environmental review and approve the project with conditions based on the following findings:

**USE PERMIT FINDINGS:**

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development in that:**  
The enclosure around the LOX tanks and associated equipment will match the existing equipment enclosures in the parking lots of the Business Park, and will blend in with the existing design and scale of the Business Park.
- 2. The proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle and transit facilities in that:**  
The proposed Wound Clinic and the exterior location of the LOX equipment enclosure would not change the intensity, type or location of businesses that would be allowed to occupy buildings in this area.
- 3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have deleterious effects on existing business districts or the local**

**economy in that:**

The granting of the Use Permit would allow a valuable service to Alameda. The Wound Clinic's presence would enhance the business park and provide improved health care to the community.

**4. The proposed use relates favorably to the General Plan, in that**

The General Plan designates this area as "Business Park" with uses that may include office, research and development space. The LOX equipment enclosure and the Wound Care Clinic will function similarly to a doctor's office, and are in conformance with the General Plan goals and policies for this area.

**DESIGN REVIEW FINDINGS:**

**1. The proposed design is consistent with the General Plan, Zoning Ordinance, and City of Alameda Design Review Manual in that:**

Design of the LOX enclosure is consistent with the goals and policies for the Marina Village Business Park, as outlined in the General Plan. The size, height and placement meet all zoning requirements; and adheres to the direction given in the Design Review Manual.

**2. The proposed design is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses, in that:**

The project has been reviewed for consistency with City development regulations, policies and design guidelines. The equipment enclosure, as conditioned, is visually compatible with the both the business park and the adjacent residential uses and will not otherwise adversely affect neighboring properties.

**CONDITIONS:**

**1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit. The second sheet may also be used if the first sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

**2. Applicant/Property Owner Responsible for Compliance with Conditions**

The applicant/property owner shall ensure compliance with all of the following conditions. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Permit.

#### **4. Plans and Representations Become Conditions**

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, which indicated the proposed structure or manner of operation are deemed conditions of approval.

#### **5. Subject to all City and Other Regulations**

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

#### **6. Zoning Administrator - Appeal**

The decision of the Zoning Administrator shall be final unless appealed to the Planning Board, in writing and within ten (10) days after the decision of the Zoning Administrator or within three days after the Zoning Administrator has reported to the Planning Board, whichever is greater. Appeal shall be filed in writing stating the basis of appeal and paying the required fees to the Community Development Department

#### **7. Hold Harmless and Indemnification Agreement**

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

#### **8. Fees, dedications and extractions- Limit to Challenge**

The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

## **9. Judicial Proceedings – Limit to Challenge**

No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

## **10. Dark Skies**

All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

## **11. Vest and Lapse of Permits**

- a. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- b. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- c. A permit may be declared lapsed and of no further force and effect if it is not exercised within two years of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has (1) applied for a building permit or (2) made substantial good faith efforts to obtain a building permit, even if a building permit has not been issued and/or construction has not begun.

## **12. Right to Modify or Revoke Entitlement**

The Planning Board and/or City Council shall have the authority to modify or revoke this entitlement upon finding that the maintenance or operation of the proposed establishment violates any of these conditions or is detrimental to persons residing or working in the neighborhood, to property and improvements in the neighborhood or to the general welfare of the City.

13. The plans submitted for building permit and construction shall be in substantial compliance with plans submitted to the City on November 15, 2011 and on file in the office of the City of Alameda Planning and Building Department, except as modified by the conditions listed in this letter.
14. The plans submitted for building permit and construction shall show that the LOX enclosure shall be constructed of cement with a metal door and painted to match the existing tall enclosure on the east side of the parking lot.
15. Refilling of oxygen tanks will take place between the hours of 7 AM and 6 PM Monday through Friday and shall adhere to the City of Alameda Noise Ordinance.

16. Any exterior changes shall be submitted to the Planning & Building Department for review and approval prior to construction.

The decision of the Zoning Administrator shall be final unless appealed to the Planning Board, in writing and within ten (10) days of the decision; or within three days after the Zoning Administrator has reported to the Planning Board, whichever is greater. Appeal shall be filed in writing stating the basis of appeal and paying the required fees to the Community Development Department

Approved by: \_\_\_\_\_ Date: November 28, 2011  
Margaret Kavanagh Lynch, Zoning Administrator